IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE
and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT APPEAL NO : 777 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 29/01/2004 in WP NO : 13752 OF 2003 on the file of the High Court.)

Between:
M/s.Satya Sri Stone Crushers, S.C.No.1237/Cat-III, Duddukuru, Devarapalli Mandal, West Godavari District,
Rep. by its Prop. D.V.V.S.Sambasiva Reddy.

..... APPELLANT

AND

1 The Superintending Engineer (Assessments), A.P.Eastern Power Distribution Corporation Limited, Visakhapatnam.
2 The Assistant Divisional Engineer (Operation), A.P.Eastern Power Distribution Corporation Limited, Gopalapuram,
West Godavari District.
3 The Assistant Divisional Engineer,DPE-II, A.P.Eastern Power Distribution Corporation Limited, Eluru, West Godavari Dist.

.....RESPONDENT(S)

For the Appellant: MR.N.SIVA REDDY, Advocate

For the Respondent No.: MR.KANAKAMEDALA RAVINDRA KUMAR,

Advocate.

The Court Made the Following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Notice was served upon the appellant by the Assistant Divisional Engineer (Operations), Gopalapuram, West Godavari District dated 9-6-2003 pointing out that the appellant had indulged in pilferage of electricity. Therefore, opportunity was allowed to the appellant to participate in the enquiry to be made by the Superintending Engineer and if it was desirous of obtaining restoration of supply, to pay part of the provisional assessment.

Instead of filing any representation before the Superintending Engineer, the appellant straightaway filed the writ petition saying that it is not a case of pilferage of electricity but it is a case of defective meter.

Learned single Judge by the impugned order dismissed the writ petition with an observation that it is for the appellant to approach the concerned authorities.

Before us, learned counsel for the appellant, still insists that it is a case of defective meter, for which enquiry has to be conducted by some other authority but not by the Superintending Engineer and the appellant need not deposit the estimated amount or any part thereof till the enquiry is completed by the authority concerned.

We cannot accept any such submission advanced by the learned counsel for the appellant that at this stage the court has to presume that the dispute is as regards defective meter. Notice has

been issued to the appellant that it has indulged in pilferage of electricity. It is for the appellant to appear before the authority and justify its stand that it is not a case of pilferage but it is a case of defective meter. In the enquiry to be conducted by the Superintending Engineer, if it is found that it is a case of defective meter, further follow up action has to be taken in accordance with the provisions of the relevant Act and the Rules and Regulations. If it is found that it is a case of pilferage, the question will be for proper assessment to be made. Such disputed questions cannot be decided in a writ petition. Since the appellant has got a remedy of appearing before the concerned authorities to justify its stand, we see no reason to interfere with the impugned order.

The writ appeal is dismissed.

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DEVINDER GUPTA,

CJ

18-6-2004

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G.ROHINI, J

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